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Anthony J. Annucci
Acting Commissioner
NYS Department of Corrections & Community Supervision
314 W 40th St
New York, NY 10018

April 3, 2019

Dear Acting Commissioner Annucci:

As the District Attorney of Kings County, I have pledged to keep Brooklyn safe while strengthening community trust by ensuring fairness and equal justice for all. Just as I am committed to identifying and prosecuting those who do the most harm, I also believe that fairness and equal justice sometimes require taking second looks and giving second chances. To that end, I have directed the attorneys in my Office to consider how we might best support and provide advice and expertise to the Parole Board as it makes decisions for release. As a first step, I have directed them to cease our previous practice of ordinarily opposing parole, a position that we often expressed in a letter written and filed shortly after sentencing—obviously before accounting for a defendant's progress in prison, without incorporating present-day values and understandings of fairness, accountability, and safety, and without incorporating current views and concerns of survivors and victims.

Instead, we will now participate in parole proceedings with the following new policy positions, set forth below. We will continue to write letters providing analysis of individual cases, but write now to inform you that these positions represent our default views.

Parole Determinations for Cases Resolved with Guilty Pleas

First, this Office believes that defendants who voluntarily admitted their guilt and entered into fair and just plea agreements with this Office should be afforded a meaningful opportunity to obtain release at their first parole date—that is, upon completion of the agreed-upon minimum sentence—absent extraordinary circumstances and subject to their conduct during incarceration (meaning this Office does not support parole for individuals with unsatisfactory disciplinary records). We believe this position reflects the bargain we made with the defendant at the time of conviction as to what an appropriate minimum sentence could be.

Parole Determinations for Cases Involving Indeterminate Life Sentences for Young Offenders

Second, for individuals sentenced to indeterminate life sentences for crimes they committed up to and including the age of twenty-three, this Office acknowledges the special considerations—specifically, about the connection between age on the one hand and lack of maturity, underdeveloped sense of responsibility, impulsivity, vulnerability to influence, the changing nature of character, and other factors associated with culpability on the other—that must go into their parole determinations. Accordingly, we will seek to support a meaningful inquiry into whether individuals who committed crimes in their youth have matured into appropriate candidates for release. We also recognize that the connection between age and culpability is different for an eighteen-year-old compared to a more mature, yet still young, offender.

Other Policies

In addition to those regularly occurring parole determinations described above, this Office has adopted broadly applicable policies regarding cases of medical parole and cases of early conditional parole for the sole purpose of facilitating deportation. It is our hope that this Office can relay these blanket policies to you and to the Parole Board in such a way that these parole determinations are not delayed while the Board awaits a response from this Office. As to cases of medical parole, this Office does not object to medical parole requests where the Parole Board deems it appropriate. As to early conditional parole for the sole purpose of facilitating deportation, this Office does not consider a defendant's citizenship, immigration status, or possible deportation to be germane to our parole recommendations. Thus, this Office strongly opposes conditional parole for deportation where a defendant is not otherwise a safe and appropriate candidate for release.

Requests for Assistance

To accomplish our aims of providing substantive advice and expertise to the Parole Board, we seek your assistance in ensuring that pending parole hearings are brought to this Office's attention in time and with the information required to permit us to respond meaningfully to as many inquiries as possible. Although customarily parole letters are sent to this Office on a rolling basis throughout the year, we are requesting an advance list of all inmates sentenced out of Kings County who are scheduled to appear before the Parole Board in this calendar year. If possible, that list should include the inmate's name, date of birth, crimes for which he or she was convicted, sentence imposed, estimated parole hearing date, and whether or not this is the inmate's first hearing. Internally, our Office will identify those inmates who pled guilty, and those serving indeterminate life sentences who committed the offenses for which they are incarcerated before the age of twenty-three, and we would appreciate any assistance you can provide in this regard. Going forward, we would like to update our list of pending parole hearings quarterly, and hope that you can assist in identifying a point person within DOCCS with whom we can coordinate this effort.

I appreciate the Parole Board's critical role in balancing safety with the values of redemption and rehabilitation. I look forward to working in partnership with you and other stakeholders, community partners, agencies and allies like the NYS Department of Corrections & Community Supervision, and welcome your insight and input as we work to ensure that we are able to provide meaningful parole recommendations in the future.

Sincerely,

A handwritten signature in black ink that reads "Eric Gonzalez". The signature is written in a cursive, flowing style with a large initial "E".

Eric Gonzalez